

Claims 1 through 19 were rejected on the ground of double patenting of the obviousness type over claims 1 through 8 of U.S. Patent No. 6,337,937 (the '937 Patent) in view of WO'068.

In the statement of the rejection the Examiner admitted that the invention claimed in the '937 Patent does not involve the step of irradiating the core between the long-period gratings with ultraviolet light. The Examiner concluded that one having ordinary skill in the art would have been motivated to modify the patented inventions by irradiating the core for the reason disclosed by WO'068. This rejection is traversed.

As previously argued, the claimed invention relates to a filter with long-period gratings; whereas, WO'068 relates to a filter with short-period gratings. As also previously argued, and supported with factual evidence, there are art-recognized differences between filters with long-period gratings vis-à-vis filters with short-period gratings. There is no apparent factual basis of record upon which to predicate the conclusion that one having ordinary skill in the art would have been motivated to modify the claimed method and filter with long-period gratings of the '937 Patent by implementing ultraviolet irradiation, merely because WO'068 discloses irradiation of a filter with short-period gratings. *Teleflex Inc. v. Ficosa North America Corp., supra; In re Lee, supra.*

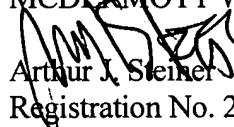
Applicants, therefore, submit that the imposed rejection of claims 1 through 19 on the ground of double patenting of the obviousness type over claims 1 through 8 of the '937 Patent in view of WO'068 is not factually or legally viable and, hence, solicit withdrawal thereof.

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Based upon the foregoing it should be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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